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Dated: November 24, 2003 Signature: *Sharon M. Sintich*
(Sharon M. Sintich)

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Docket No.: 28335/36996US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jeffrey S. Bartlett

Application No.: 10/038,972

Art Unit: 1636

Filed: January 4, 2002

Examiner: M. Marvich

For: AAV2 VECTORS AND METHODS

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In a restriction requirement dated October 24, 2003, in the above-identified matter, the Patent Office alleged that pending claims 1-41 were directed to eight distinct inventions. This election is timely filed.

I. Restriction

Citing 35 U.S.C. § 121, the Examiner alleged that claims 1-41 were drawn to eight distinct inventions:

I. Claims 1-12, 17-18, 21-26 and 35 directed to an AAV vector comprising a capsid protein with an amino acid insertion that comprises a targeting peptide.

II. Claims 1-8, 13, 17-19, 21-26 and 35-36 directed to an AAV vector comprising a capsid protein with an amino acid insertion that comprises an immunogen.

III. Claims 1-8, 14-18, 20, 21-26 and 35 directed to an AAV vector comprising a capsid protein with an amino acid insertion that comprises a substrate for an enzymatic reaction.

IV. Claims 27-29 directed to a method of producing AAV vectors comprising a capsid protein with an amino acid insertion.

V. Claims 30-34 and 38 directed to a method of transferring a DNA of interest to a cell.

VI. Claim 37 directed to a method for eliciting an immune response in an animal.

VII. Claims 39-40 directed to a method of infecting a cell comprising administering an AAV vector to the cell.

VIII. Claim 41 directed to an AAV vector comprising a biotinylated capsid protein.

II. Election

Applicants hereby elect Group I, which includes claims 1-12, 17-18, 21-26 and 35 drawn to an AAV vector comprising a capsid protein with an amino acid insertion that comprises a targeting peptide.

The Examiner also required an election of a single sequence for examination. Applicants hereby elect SEQ ID NO: 10.

III. Traversal of Restrictions**A. Applicants traverse the restriction of claim Groups I and IV**

The claims of Group IV are directed to methods of producing the AAV vectors of Group I. These method use the polynucleotide of claim 25 (Group I) for production of the AAV vectors. If the polypeptides of Group I (product claims) are found novel and non-obvious under 35 U.S.C. §103(a), Applicants may be entitled to rejoinder of claims to methods of producing that product. *See* 1184 OG 86, (1996). Applicants hereby request that, if the product claims of Group I are allowed, the Patent Office rejoin the method claims of Group IV. To facilitate efficient examination, Applicants request that the claims of Group I and Group IV be examined simultaneously. If the Examiner is aware of another method to make the product as claimed, using a process which is materially different from that set forth in the restricted claims, Applicants respectfully request the Examiner substantiate her position in greater detail. Applicants respectfully request that the restriction requirement with respect to Groups I and IV be withdrawn and these groups be examined simultaneously.

B. Applicants traverse the restriction of claim Groups I and V

The Group V methods of transferring a DNA of interest to a cell comprise delivering to a cell an AAV vector of Group I. This interrelatedness is substantiated by the fact that the claim 30 (Group V) depends from claims in Group I. If the AAV vectors of Group I (product claims) are found novel and non-obvious under 35 U.S.C. §103(a), Applicants may be entitled to rejoinder of claims to methods of using that product. *See* 1184 OG 86, (1996). Applicants hereby request that, if the product claims of Group I are allowed, the Patent Office rejoin the method claims of Group V. To facilitate efficient examination, Applicants request that the claims of Group I and Group V be examined simultaneously. The small number of claims in Group V and their relatedness to Group I suggest there will be no serious burden involved. Applicants respectfully request that the restriction requirement with respect to Groups I and V be withdrawn and these groups be examined simultaneously.

C. Restriction of other claims

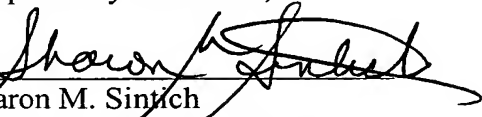
Applicants reserve the right to traverse the restriction of any of the other claim groups set out in the restriction requirement upon re-presentation of the other claims groups in duly filed applications claiming priority to the present application.

CONCLUSION

It is respectfully requested that the restriction requirement between Groups I, IV and V be withdrawn, and Groups IV and V be examined simultaneously with elected Group I.

Dated: November 24, 2003

Respectfully submitted,

By 
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